THE CASE IN LAW AND EQUITY OF *TRISTRAM WODWARD* Esq; FOR THE Mannors of *Tuddington*, *Harlington*, And *Tyngrith*, and other Lands in the County of *Bedford*, Reported to the Commissioners of Obstructions, by Mr St *Nichlas* the Councell for the Common-wealth.

To the Honourable the Commissioners of Parliament, for removing Obstructions in the sale of severall Lands and Estates forfeited to the Commonwealth for Treason.

IN obedience to your severall Orders of the 11 of *September*, 30 of *October*, and 25 of *February* 1651. upon the Petition of *Tristram Wodward* Esquire, who layes claim out of the Estate of *Thomas* Earl of *Cleveland*, to the Mannors of *Tuddington*, *Harlington* and *Tyngrith* in the County of *Bedford*:

I have examined and finde,

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That by the copy of an Office taken 35 of *Eliz.* after the death of *Henry* late Lord *Cheyne*, it appeareth that the Mannors of *Tuddington*, *Harlington* and *Tyngrith* in the County of *Bedford*, were the Inheritance of the ſaid Lord *Cheyne*, by diſcent from *Anne Broughton* his Mother: And it appeareth that in the 6 year of Queen *Elizabeth*, the Lord *Cheyne* did ſuffer a Common Recovery of the ſaid Mannors, to the uſe of the Lord *Cheyne* and *Jane* his Wife for their lives, the Remainder to the Heirs of the body of the Lord *Cheyne*, Remainder in Fee to the ſaid *Jane*.

And in Trinity Tearm 13 of *Elizabeth*, the ſaid *Henry Cheyne*, then Sir *Henry Cheyne* Knight, and Dame *Jane* his Wife, did ſuffer a new Recovery of the ſaid Mannors and Land, and by their Tripartite Deed dated the 2 of *April* the 13 of *Elizabeth*, limit the uſe to Sir *Henry Cheyne* and Dame *Jane Cheyne* and the heirs males of Sir *Henry* on the body of the Lady *Jane*, Remainder to the heirs males of the body of Sir *Henry Cheyne*, Remainder to the heirs of the body of the ſaid Lord *Cheyne* on the body of the ſaid Lady *Jane*, Remainder to the heirs of the body of the ſaid Lord *Cheyne*, and for default of ſuch Iſſue, to the uſe of ſuch Perſon and Perſons, and for ſuch Eſtate and Eſtates as the ſaid Dame *Jane* ſurviving the ſaid Sir *Henry Cheyne* at any time during her life ſhall diſpoſe or appoint, by any writing ſubſcribed with her hand and ſealed with her Seal: and for default of ſuch Iſſue and diſpoſition and appointment, and after the expiration of ſuch diſpoſition or appointment, then to the uſe of the ſaid Sir *Henry Cheyne* his heirs and aſſignes for ever abſolutely without any Condition.

And I finde by the Anſwer upon Oath of *Thomas* Earl

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Earl of *Cleveland*, and Sir *John Crofts* 12 *Jacob.* to an Information in the Court of Wards, at the relation of *Thomas Cheyne* Eſq; the next heir of *Henry* Lord *Cheyne* by three Inquiſitions, that the ſaid Lord *Cheyne* did cauſe his wife to joyn with him in a new Recovery 13 *Eliz.* to the uſe of the Lord *Cheyne* and *Jane* his wife, and to the heirs males of the body of the Lord *Cheyne* upon the body of the ſaid *Jane* lawfully coming, the Remainder to the heirs males of the body of the Lord *Cheyne*, the Remainder to the heirs of the body of the Lord *Cheyne* upon the body of the ſaid *Jane*, the Remainder to the heirs of the body of the Lord *Cheyne*, the Remainder to ſuch perſon and perſons, and for ſuch eſtate and eſtates as the ſaid *Jane* ſurviving the Lord *Cheyne*, at any time during her life ſhall diſpoſe or appoint, by any writing ſubſcribed with her hand and ſealed with her Seal, as by a Copy of the ſaid Anſwer depoſed by *George Becke* Gent. to be a true Copy of the Originall appeareth.

And it is depoſed in Chancery, that upon a Reference from the Parliament to Juſtice *Reeve* and Juſtice *Foſter*, the Earl by his Councell and Sollicitor, did produce the other part of the ſaid Deed of 13 *Eliz.* which limited the Fee-ſimple of all the Mannors, for want of Iſſue of the Lord *Cheyne* and ſuch diſpoſition of his wife, and after the expiration of ſuch diſpoſition to remain to the Lord *Cheyne* and his heirs and aſſignes for ever abſolutely and without any Condition, as by a Copy of the Depoſitions of *John Cook* and *Richard Wallopp* Eſquires, depoſed by *George Becke* Gent. to be a true Copy of the Originall appeareth.

And it appeareth by the Copy of a part of the Will of the ſaid *Jane* Lady *Cheyne*, examined by the Re-

cord, and depoſed by the ſaid *George Becke*, to be a true Copy of ſo much of the ſaid Will: That the 10 *Jacob.* ſhe made a Leaſe for 30 years of the aforeſaid Mannors, to Sir *John Croſts* and Dame *Mary* his wife, to begin from the death of the ſaid Lady *Jane*: And it appeareth by a *Memorandum* in the foot of the ſame Will upon Record, ſhe died the 16 of *April* 12 *Jacob.* whereby the ſaid Leaſe ended the 16 of *April* 1644.

And I finde that by Indenture dated the 12 *Martij* 11 *Jacob.* made between *Thomas Cheyne* Cozen and next heir to the ſaid *Henry* Lord *Cheyne* and *Triſtram Wodward* the Petitioner and *Ellen* his wife, one of the daughters of Sir *Edmund Pelham* of the one part, and Sir *Thomas Pelham* Knight and Baronet, Sir *John Hungerford* Knight, Sir *John Wodward* Knight, *Anthony Dyott*, *Herbert Pelham* Son and heir of the ſaid Sir *Edmund Pelham*, *William Cobbs* Eſq; and *John Coddrington* Gent. of the other part, Reciting; That whereas the ſaid *Thomas Cheyne* by Deed of Bargain and Sale inrolled in Chancery, dated 17 *Novemb.* 6 *Jacob.* for the conſideration of divers Lands, Tenements and Leaſes for years, amounting to the value of 10000 pound, which were purchaſed with the money and goods of the Grandmother and Grandfather of the ſaid *Triſtram Wodward*, and meant and intended for the Portions and advancement of *Joan* the Mother of the ſaid *Triſtram*, and conveyed away from her unto *Elizabeth Cheyne* the wife of the ſaid *Thomas Cheyne* and ſiſter of the ſaid *Joan*, and the money thereof ſpent in the great Suits of the ſaid *Thomas Cheyne*, for the obteyning of the Lands wrongfully ſold away from the ſaid *Thomas Cheyne* by the ſaid *Henry* Lord *Cheyne*, which Lands of the ſaid *Elizabeth*

beth Cheyne, or ſo much in value was meant by the ſaid *Thomas Cheyne* and *Elizabeth* his wife, after the death of the ſaid *Elizabeth* without Iſſue, or after the death of the ſaid *Henry* Lord *Cheyne* without Iſſue, to remain unto *Joan* the ſaid ſiſter of the ſaid *Elizabeth Cheyne*, and mother of the ſaid *Triſtram*. And for divers other good Conſiderations in the ſaid Deed expreſt, hath given, granted, bargained and ſold unto the ſaid *Triſtram Wodward* and his heirs, the Mannors of *Tuddington*, *Chalgrave*, *Harlington* and *Tyngrith*, and the Reverſion and Reverſions, Remainder and Remainders thereof, and of all other the Lands, Tenements and Hereditaments of the ſaid *Thomas Cheyne*, whereof the ſaid *Henry* Lord *Cheyne* died ſeized in the ſaid County of *Bedford*, after the death of the Lady *Cheyne* wife of the Lord *Henry Cheyne*, which lawfully deſcended and of right ought to come unto *Thomas Cheyne*, as Cozen and next heir to the ſaid *Henry* Lord *Cheyne*, and whereof the ſaid *Thomas Cheyne* by Inquiſition after the death of the ſaid Lord *Cheyne*, is found to be Cozen and next heir to the ſaid Lord *Cheyne*, as by a Copy of the ſaid Inquiſition depoſed by the ſaid *George Becke* to be a true Copie of the Originall to me likewiſe appeareth.

Now the ſaid *Thomas Cheyne* and *Triſtram Wodward*, as well in conſideration of divers ſummes of Money paid by the ſaid *Herbert Pelham* to the ſaid *Triſtram Wodward*, in marriage with the ſaid *Ellen* his wife, ſiſter of the ſaid *Herbert Pelham*, and in conſideration of the ſaid marriage had between the ſaid *Triſtram* and the ſaid *Ellen*, the daughter of the ſaid Sir *Edmund Pelham* and *Ellen* Lady *Pelham* her mother, Cozen of the whole blood to the ſaid *Henry* Lord *Cheyne* and to the

ſaid *Thomas Cheyne*, ſhe being deſcended from the *Cheynes* of *Crall* in *Suſſex*, who are of the whole blood and family of the ſaid Lord *Cheyne*: And for that the ſaid *Triſtram* is of blood of the ſaid *Elizabeth Cheyne*, and the ſaid *Ellen* and her Iſſue of the blood of the ſaid *Cheynes* of *Crall*, and ſhall keep the ſame Name; and for advancement of the heirs of the bodies of the ſaid *Triſtram* and *Ellen* his wife, do Covenant to ſtand ſeized of the ſaid Mannors of *Tuddington*, *Chalgrave*, *Harlington* and *Tyngrith*, and of the Reverſions thereof, and of all other the Lands, Tenements and Hereditaments of the ſaid *Thomas Cheyne* and *Triſtram Wodward* or either of them, in *Tuddington*, *Chalgrave*, *Horkley*, *Tyngrith*, *Harlington*, *Apſley*, *Ridgemont*, *Weſtonning*, *Sundon*, *Pullox hill*, *Haughton*, *Flitwicke*, and *Strackley* in the ſaid County of *Bedford*, to the uſe of the ſaid *Triſtram Wodward* and *Ellen* his wife, and the heirs of their two bodies, the Remainder to the right heirs of the ſaid *Triſtram* for ever, which Indenture was enrolled in Chancery 23 *Febr.* 18 *Jacob.* as by the Copy of the ſaid Indenture depoſed by the ſaid *George Becke* to be a true Copy of the Record appeareth.

And I finde that the ſaid *Thomas Cheyne* 4 *Novemb.* 12 *Jacob.* did acknowledge a Recognizance in nature of a Statute Staple of 40000 pound, before the then Chief Juſtice Sir *Edward Cook*, to *Triſtram Wodward* and *Cheyne Wodward* his ſonne, defeazanced for performance of the Covenants of the ſaid Deed of 6 and 11 *Jacob.* as by the Counterpart of the ſaid defeazance not yet proved appeareth.

And that the Lord *Cheyne* and *Jane* his wife, did the 20 *Eliz.* by *Fine Sur conceſſit*, make a Leaſe for

30 years

30 years of part of every Mannor to *John Pare*, reſerving the old Rent to be paid to the Lord *Cheyne* and *Jane* his wife, and to the heirs of the Lord *Cheyne*.

And the Lord *Cheyne* without his wife, 24 *Eliz.* did ſuffer a Common Recovery of another part of every Mannor, and made the like Leaſe to one *Francis Bevill*.

And the Lord *Cheyne* and *Jane* his wife, 27 *Eliz.* did by *Fine Sur conceſſit*, make the like Leaſe for 30 years for another part of every Mannor, to *Ralph Aſtrey* Eſq; and reſerved the old Rents to him and *Jane* his wife, and the heirs of the Lord *Cheyne*.

And the Lord *Cheyne* and *Jane* his wife, 28 *Eliz.* did joyn in Fines of the Coppy hold Lands of every Mannor, to make them Freehold, whereby the Petitioner Claimes to part of the Lands and profits ſince the death of the Lady *Cheyne*, and to the Reverſion and profits of the reſt of the Mannors ſince the 16 of *April* 1644. when the Leaſe to Sir *John Croſts*, &c. expired.

And I finde that the Earl of *Cleveland* and Sir *John Croſts*, do in their Anſwers in the Court of Wards, plead two Titles againſt the ſaid *Thomas Cheyne*; The one that 6 *Jacob.* he had conveyed the Reverſion to the Petitioner and his heirs.

And that the 29 of *Eliz.* the ſaid *Jane* Lady *Cheyne* did by her writing grant the Reverſion of the ſaid Mannors after her death, to one *Edmund Pooley* and *Charles Glenham* and their heirs, and that ſhortly after they re-granted the Fee to *Jane* Lady *Cheyne* and her heirs, which is the now Earl of *Cleveland*, as by a Copy of the ſaid Anſwer depoſed by the ſaid *George Becke*, to be a true Copy of the Record, appeareth.

And

And it is depoſed in Chancery, That the ſaid Earl by his Councel and Sollicitors, did produce the ſaid Deed of 29 *Eliz.* to Juſtice *Reeve* and Juſtice *Foſter*, upon the Reference to them, who being informed that the ſaid Deed was not found in the Lord *Cheynes* Office 35 *Eliz.* nor in the Lady *Cheynes* Office 12 *Jacob.* nor pleaded by the Lady *Cheyne* in the Exchequer to the reſpit of Homage 36 of *Eliz.* nor ſpoken of by the Lady *Cheyne* in her laſt Will, as it likewiſe appeareth to me by Copies of the ſaid ſeverall Inquiſitions, Pleadings and Will, depoſed before this Honourable Committee to be true Copies: and demanding the reaſon why it was not found in the ſaid Offices, M. Serjeant *Taylor* the Earls then Councel did confeſs the ſaid Deeds of 29 *Eliz.* were proffered to the Jury 12 of *Jacob.* at the finding of the Lady *Cheynes* Office, but then the Jury would not finde them; and that Juſtice *Reeves* ſaid, thoſe Deeds were no evidence, which Juſtice *Foſter* did not contradict. And it is likewiſe depoſed in Chancery, That the ſaid Earl borrowed Money upon his Title by the Deed of 6 *Eliz.* and the Inquiſition of the 35 of *Eliz.* and concealed the Deed of 13 *Eliz.* and the Deed to *Pooley* and *Glenham*, the Copies of which Depoſitions are likewiſe depoſed to be true Copies of the Originall by the ſaid *George Becke.*

And I finde that by Inquiſition taken at *Dunſtable* in the County of *Bedford* 17 *Martij* 12 *Jacob.* upon a *Diem clauſit extremum*, after the death of *Jane* Lady *Cheyne*, it was found that the ſaid *Jane* Lady *Cheyne* in her life time, and long before her death, was ſeized in her Demeaſne as a Fee of the Mannors of *Tuddington* with the appurtenances in the County of *Bedford*, and

and of certain Glebe Lands in the ſaid Pariſh called the Portionaries, and of the Mannors of *Chalgrave*, *Harlington*, the Rectory of *Harlington*, the Mannor of *Tyngrith*, and divers Meſſuages, Lands, Tenements, &c. in *Tuddington*, *Chalgrave*, *Harlington*, *Tyngrith*, *Horkley*, *Appley*, *Rigemount*, *Weſtonning*, *Sundon*, *Pullox hill*, *Hanton*, *Flitwicke* and *Strackley* in the ſaid County of *Bedford*, and that ſhe was ſeaſed in her Demeſne as a Fee of a certain Grange called *Pullox hill Grange*, alias *Harlington Grange* in the County of *Bedford*, and of a Cloſe of Paſture called *Muncks Cloſe*, and a parcell of Meadow called *Cranford Meade*, and a water Mill to the ſaid Grange belonging, ſometime belonging to the late diſſolved Monaſtery of *Woeburn*, which laſt mentioned parcels were purchaſed by the ſaid Lady *Jane*, and *Henry* Lord *Cheyne*, her late husband of one *Roger Alford*, and of divers other parcels of Lands in *Tuddington*, therein particularly mentioned; and that ſhe died ſeized thereof in Fee 16 of *April* then laſt paſt 12 *Jacob.* And I finde *Thomas Wentworth* Knight, Lord *Wentworth* her Cozen and next heir, as by a Copy of the ſaid Inquiſition depoſed by *George Becke* to be a true Copy of the Originall appeareth.

But I finde in a Suit depending in Chancery, between the Petitioner his wife and others Plaintiffs, and *Thomas* Earl of *Cleveland* and others defendants, upon opening and long debate of the matter 26 *Novemb.* 5 *Carol.* in the preſence of Councel learned on both ſides, the Lord Keeper being aſſiſted with the Lord Chief Juſtice of the upper Bench and M. Juſtice *Croak*; his Lordſhip, and the ſaid Lords the Judges were of opinion and did ſo declare, that they held it

not fit that the ſaid Defendant ſhould ſhew his Evidences, or that he ſhould make any further Anſwer to the ſaid Bill; and that they found no ſuch Conſideration expreſſed in the Plaintiffs Deeds, as was fit for that Court to give any allowance thereof, and therefore did order that the matter be cleerly and abſolutely diſmiſt out of the ſaid Court, as by a Copy of the ſaid Order hereunto annexed, depoſed by *John Willis* to be a true Copy of the originall Record appeareth.

And in purſuance of the Order of *Jan.* 1. 1651. I finde it is depoſed by Sir *John Thorowgood* Knight, That about the yeare One thouſand ſix hundred forty and two, the Petitioner *Triſtram Wodward* came to this Deponents houſe in St. *Jones*, and ſhewed a Caſe formerly drawn up and ſigned by two or three eminent Lawyers, which did intitle the ſaid *Wodward* to the Lands of the Earl of *Cleveland* in *Bedfordſhire*, as deſcending to him by Title derived from the Lord *Cheyne*; his Propoſition to this Deponent was, that this Deponent would compound with him the ſaid *Wodward*, for the Mannor of *Harlington* in the County aforeſaid, which was morgaged to the ſaid Deponent by the ſaid Earl, and that he would uſe this Deponent well in it: This Deponent was apt to imbrace the motion, which might free the Mannor from all former incumbrances, and give him a Title before the Earl, and therefore he deſired that he might have the ſaid *Wodwards* Title in writing, to advize with his Councell upon it, which the ſaid *Wodward* willingly delivered to this Deponent.

The Opinion of this Deponents Councell was, That M. *Wodward* had not rightly ſtated the Caſe to his Councell, becauſe there was nothing more talked

of

of in *Weſtminſter Hall*, then that ſuppoſed Title which had paſſed the Court of Wards, and other Courts of Judicature.

And he did beleeve that if the Right had been on *Wodwards* ſide, one Court or other would have relieved him, and therefore diſſwaded this Deponent from truſting to his Title or to give him any thing for it.

M. *Wodward* coming to receive an Anſwer, this Deponent told him, that his Councell would not advize him to deal with him; M. *Wodward* then told this Deponent of one M. *Smith* an able Gent. and a Lawyer of the Middle Temple, who as he ſaid did rightly underſtand his Title, beleeved it to be good and intended to deal with him, the ſaid *Smith* having likewiſe an Ingagement upon the ſaid Earls Eſtate, and prayed this Deponent to ſpeak with the ſaid *Smith*.

This Deponent went to M. *Smith*, being willing to ſecure his Debt, and found him ſtrongly poſſeſſed with an opinion that M. *Wodwards* Title was good; and not being able to convince him, this Deponent propoſed that we ſhould all three go to M. *Hales* of *Lincolns Inne*, M. *Wodward* ſhould ſhew him his Evidences, and M. *Smith* and this Deponent ſhould joyn in the Fee.

We did ſo, M. *Hales* deſired three or four dayes time to conſider of the buſineſs, after which time we repaired to M. *Hales*, who ſaid, that if ſuch a Deed which he had then in his hands, which this Deponent taketh to be a Counterpart or a Copy of the Deed of *Pooley* and *Glenham*, could be proved, which to this Deponents beſt remembrance was witneſſed with ſeven or eight witneſſes, ſome of them perſons of quality, then M. *Wodwards* Title to the ſaid Lands was nothing worth: then this Deponent asked M. *Hales*,

if the Witneſſes were dead how it could be proved? his Anſwer was, that if it could be proved to be their hands it would be ſufficient, with which Anſwer M. *Smith* and this Deponent were ſo well ſatisfied, that they moved no more in the buſineſſe, only M. *Wodward* came afterwards to this Deponent, ſetting forth his wants and ſaying, that a very ſmall matter would content him, and this Deponent verily beleeveth, that much leſſs then one hundreds pounds would at that time have bought his Title to the Mannor of *Harlington*, which was morgaged to this Deponent by the ſaid Earl.

And at another time meeting with the ſaid M. *Wodward*, he deſired this Deponent that he would not diſſwade other men from dealing with him the ſaid *Wodward* for his Title, or words to that effect.

And *Triſtram Wodward* Eſq; depoſeth, that *Richard Ruffin* the father of *Eliz. Cheyne*, took an Adminiſtration after the death of *Anne Ruffin* his wife, mother of *Elizabeth Cheyne* and Grandmother of this Deponent; And that the ſaid *Richard Ruffin* 2 *Eliz.* did by Fine purchaſe a Leaſe for 65 years of divers Lands called *Swinford Leaſe*, in which Leaſe is mentioned to be demiſed, one hundred Acres of Meadow, and five hundred Acres of Paſture, and one hundred Acres of Wood, together alſo with the Ferry of *Swinford*, as by a Copy of the ſaid Aminiſtration and Fine depoſed by *George Becke* Gent. to be true Copies appeareth.

And this Deponent further ſaith, That 4 *Eliz.* there was an Adminiſtration taken after the death of the ſaid *Richard Ruffin*, wherein there is alſo mentioned divers other Leaſes of Lands called *Great twelve acres*, *Cloddings*, *the Free Lands*, *Werſey*, *Tiffins*, *the Mills and*

Mill

Mill Mores, Perts Close, Gleverse Close, Millers Close, and Lintorne, and about two thousand six hundred Sheep, eighteen Oxen, forty seven Kyne, fifty five young Beasts, sixty Horses of all kinds, divers ounces of silver and gilt Plate, and some ready-Money, besides Houshold goods of severall sorts, and Corn and Hay in severall Reekes and Barnes; and that in the foot of the Inventory there appeareth to be Eleven hundred twenty five Pound thirteen Shillings four Pence, due to the Children of *Anne Ruffin* by her former husband *William Seacoll* alias *Salkell,* as by the Inventory under the Seal of the Prerogative Court appeareth, of which Children this Deponents mother was a survivor: And this Deponent further saith, that 14 *Eliz.* this Deponents Aunt *Eliz. Cheyne,* married with *Thomas Cheyne* Esq; found heir to the Lord *Cheyne* by three Inquisitions.

And that the father of *Thomas Cheyne,* before the marriage of *Elizabeth Cheyne,* did Covenant to assure to *Eliz. Cheyne* in recompence of her Lands, the Manor of *Kynburie* and impropriate Parsonage of *Kynburie,* which this Deponent hath heard and doth verily beleeve, to be of the value of seven or eight hundred Pound *per annum*: and before the said Covenant and Conveyance made to *Elizabeth Cheyne,* the said *Thomas Cheyne* the father had made two former Conveyances of the said Lands, the one for 50 years or thereabouts the 12 *Eliz.* and the other of the Fee-simple 13 *Eliz.* to one *Langly* of *London,* as by the Copy of the Inquisition taken after the death of *Thomas Cheyne* the father 31 of *Elizabeth,* and the Copy of the Deed inrolled dated the 13 *Eliz.* deposed by the said *George Becke* to be true Copies appeareth.

And this Deponent further ſaith, That the Deed and Recovery *6 Eliz.* was only found in the Lord *Cheynes* Inquiſition *35 Eliz.* and the Deed and Recovery of *13 Eliz.* was left out of the Inquiſition, and *12 Jacob.* in the Inquiſition then taken after the death of the Lady *Cheyne*, to intitle her to die ſeized of the Fee-ſimple, there was neither the Deed of *6* nor *13* of *Eliz.* found, and ſo found her to die ſeized without Deeds of the Lands in the ſaid Recoveries mentioned, as by the Copies of the ſaid ſeverall Inquiſitions depoſed by *George Becke* to be true Copies appeareth.

And this Deponent further ſaith, That in the Diſmiſſion at large *12 Jacob.* againſt *Thomas Cheyne* in the Court of Wards, it appeareth that the Earl did plead this Deponents Deed and Conſiderations to barre *Thomas Cheyne*, and that the Clark had entred in the ſaid Diſmiſſion, that the Court was ſatisfied the Earles Title was good and ſufficient in Law, without any ſuch words or warrant in the Order for the diſmiſſion, as by the ſaid Order and Diſmiſſion depoſed by the ſaid *George Becke* to be true Copies appeareth.

And this Deponent further ſaith, That *4 Carl.* the Earl demurred to the Conſiderations generally expreſſed in this Deponents Deed and Bill in Chancery, for want of the Evidences, and got this Deponents Bill diſmiſt, and in the diſmiſſion the Earl did cauſe the Clark to inſert, that the Court would not allow of the Conſiderations of this Deponents Deeds, albeit it was directed by the Court and ſo written in the Regiſters Note-book, that the Bill was to be diſmiſſed without prejudice, as by the Notes in M. *Edwards* his

his Book Regiſter did then and after appear to this Deponent, and is ſo certified by M. *Devenish* a Clark in the Regiſters Office under his hand.

And this Deponent further ſaith, That it appeareth under the hands of Serjeant *Rolls*, Serjeant *Godbolt*, Serjeant *Atkins* afterwards Judges, and Sir *Thomas Widdrington* and others, ſubſcribed in the year of our Lord 1645. which is depoſed in Chancery by *John Cooke* and *Richard Wallopp* Eſquires to be their hands; that they are of opinion the Conſiderations are great and valuable Conſiderations for the Lands claimed by this Deponent, and that the entring by the Clark in the Court of Wards, in the diſmiſſion againſt *Thomas Cheyne*, that the Court was ſatisfied that the Earls Title was good and ſufficient in Law, without any ſuch words or warrant in the Order for the diſmiſſion and the pleading thereof againſt this Deponent at the Councel-Table and in Chancery, was unduly done and ought to be ſuppreſſed, and that this Deponent ought to have a Decree againſt the Deeds to *Pool* and *Glenham*, for divers reaſons under their hands expreſſed.

And this Deponent further ſaith, That it appeareth by the Depoſitions in Chancery of *George Almery* Gent. that he and Juſtice *Pheſant* did compound with this Deponent for their part of the Lands Morgaged to them by the Earl of *Cleveland*.

And this Deponent further ſaith, That to this Deponents beſt remembrance, M. *Hales* Councellor at Law did adviſe Sir *John Thorowgood* to compound with this Deponent for his part of the Lands morgaged to him by the ſaid Earl, and told this Deponent he would be of Councell for this Deponent againſt

the

the Title of the Earl, and to this Deponents beſt remembrance, the ſaid Sir *John Thorowgood* did tell this Deponent that he had lent the Earl three thouſand Pound upon a Morgage of the Mannor of *Harlington*, and that the ſaid Mannor was worth ſix thouſand Pound, and that if this Deponent would allow the ſaid Sir *John Thorowgood* his three thouſand Pound in the Purchaſe, he would give this Deponent three thouſand Pound more, or uſed words to the ſame effect.

And this Deponent further ſaith, That the profits of one of the Leaſes of *Elizabeth Cheyne* called *Swinford Leaſe*, from the time of the marriage of *Elizabeth Cheyne* 14 *Eliz.* to the time of the making of the Deed 11 of *Jacob.* did amount to more then the ten thouſand Pound mentioned in the ſaid Deed, for recompence whereof, and for other the Lands and goods of *Elizabeth Cheyne*, the ſaid *Thomas Cheyne* did convey and Covenant to convey the Reverſion of the ſaid Lands claimed by this Deponent.

And this Deponent further ſaith, That after the Leaſe for 30 years made to Sir *John Croſt* was ended, this Deponent did prefer a Bill in Chancery to be relieved againſt the ſaid Deeds to *Pooley* and *Glenham*, which Bill was ſigned by *Bulſtrade Whitlocke* Eſquire, after one of the Lords Commiſſioners for the Great Seal, and by *John Bradſhaw* Eſquire, after Lord Preſident of the Councell of State, and by Sir *Thomas Beddingfield* Knight after one of the Judges of the Common Pleas, and by *Henry Pelham* and *John Maynard* Eſquires, who have alſo declared in the Bill, that this Deponents remedy is by Decree in Equity againſt thoſe Deeds to *Pooley* and *Glenham* for divers reaſons;

And

And the president of *Kinersley* and *Colmers* Case in the Bill set forth, which Title of the Earl by the said Deeds to *Pooley* and *Glemham* is now come to the State, whereby this Deponents Title is to be heard and determined by the Committee of Obstructions both for Law and Equity, by the saving in the Act for the sale of Delinquents Lands, as this Deponent humbly conceiveth by the words in the Act. All which is humbly submitted to Judgement.

THOMAS St NICHLAS.

Novemb. 20. 1651.

Copia examinatur,
EDWARD NOELL.

May 13. 1652.

By the Commissioners for removing Obstructions in the Sale of Delinquents Lands and Estates.

WHereas the Cause upon the Petition and Claim of *Tristram Wodward* Esquire, out of the Estate of *Thomas* Earl of *Cleveland*, to the Mannors of *Tuddington*, *Harlington* and *Tyngrith* in the County of *Bedford* came to a Hearing this day, and the Deed of 29 of *Eliz.* made to *Pooley* and *Glemham*, mentioned in the Councels Report, being not produced in this Cause, Ordered that the further hearing of this Cause be respited untill Thursday the 27 instant, and this to be without prejudice to the parties interessed herein in the mean time, and that there do issue forth

an Order for the bringing in of the said Deed by that day.

William Roberts.
John Parker.
Francis Mussenden.
Robert Aldworth.
Henry Pit.

Copia examinatur,
Edward Noell.

May 13. 1652.

By the Commissioners for removing Obstructions in the Sale of Delinquents Lands and Estates.

ORdered, That M. *Thomas Penington* do forthwith produce to Mr St *Nichlas* of Councell for the Commonwealth, such Conveyances as he hath in his custody or can come by, as were made by the Lady *Jane Cheyne* deceased in the 29 of *Eliz.* to *Pooley* and *Glenham*, and from the said *Pooley* and *Glenham* to *Thomas* Earl of *Cleveland*, or to any other for his use, to be made use of in the defence of the Commonwealths Title, and then to be safely redelivered to the said M. *Penington*.

Copia Examinatur,
Edw. Noell.

May 27. 1652.

By the Commissioners for removing Obstructions in the Sale of Delinquents Lands and Estates.

WHereas the Cause upon the Petition and Claim therein of *Tristram Wodward* Esquire, out of the Estate of *Thomas* Earl of *Cleveland*, one of the persons named in the Act intituled, *An Act for the Sale of severall Lands and Estates forfeited to the Commonwealth for Treason*, to the Mannors of *Tuddington*, *Harlington* and *Tyngrith* in the County of *Bedford*, came according to former Order to a hearing this day, and the Certificate or Repert of Mr St *Nicholas* of Councell for the Commonwealth made in this Case being read, and Councell for the Petitioner being heard, what they had to offer in reference to the said Claim, and the same being had in serious debate and consideration, it was upon the Question resolved;

That the Claim of the said *Tristram Wodward* Esq; to the said Mannors of *Tuddington*, *Harlington* and *Tyngrith* be dismissed.

Copia examinatur,

Edward Noell.

That the Act of Parliament for Sale of Delinquents Lands, doth appoint all Juſt Claimes both in Law or Equity, to be heard, determined and allowed.

The Reaſons of learned Lawyers, why the Claim of the ſaid Triſtram Wodward *Eſq; is Juſt in Law and Equity.*

I Am of Opinion, That the Plaintiff M. *Wodward* ought to have a Decree for the Lands and profits ſince the death of the Lady *Cheyne* 12 *Jacob.* of thoſe parcells of Lands whereof the Fines *Sur conceſſit* were levied 20 *Eliz.* and 27 *Eliz.* and whereof the Recovery was ſuffered 24 *Eliz.* for that the Ladies power was interrupted from making the Leaſe for 30 years of thoſe parcells, notwithſtanding the Deeds to *Pooley* and *Glemham,* ſuppoſed to be made by the Lady *Cheyne* 29 *Eliz.* were true Deeds; but I ſuſpect thoſe Deeds to be falſe antidated Deeds, made of purpoſe to bring the Reverſion to the Earl of *Cleveland* the Lady *Cheynes* heir, contrary to the intent of the Lord *Cheyne* in the Deed of 13 *Eliz.* wherefore I am alſo of opinion, the Plaintiff ought to have a Decree for the Reverſion of all the reſt of the Lands, after the expiration of the Leaſe for 30 years made by the Lady *Cheyne* 10 *Jac.* to Sir *John Crofts,* to begin from her death 12 *Jac.* which ended the 16 of *April* 1644.

I am alſo of opinion, That the Lands and Goods of *Eliz. Cheyne* are good and valuable Conſiderations in equity, for *Thomas Cheyne* her husband to Convey his own Lands to the Plaintiff, who was ſiſters ſon of *Elizabeth Cheyne* by the ſaid bargain and ſale made

made 6 *Jac.* and that the Lands mentioned in the Deed of Bargain and Sale, ought to be decreed for the Plaintiff in equity, according to the Conveyances and Covenants of *Thomas Cheyne*.

I am also of opinion, That the new Assurances made 11 *Jac.* by *Thomas Cheyne* to Sir *Thomas Pelham*, Sir *John Hungerford* and others, do in Law raise the uses to the Plaintiff and his Children, being made for marriage between the Plaintiff and his wife, the daughter of Sir *Edmund Pelham*, and Kinswoman of *Thomas Cheyne* and of the Lord *Cheyne*, and that the Conveyance of 11 *Jac.* and the Statute of Forty thousand Pounds, are good in Law and equity.

EDWARD ATKINS.
July 18. 1645.

I Am of opinion, That for those parcels of Lands wherein the Ladies power was interrupted by the Fines of 20 and 27 *Eliz.* and by the Recovery of 24 *Eliz.* and for the profits thereof since the death of the Lady, the Plaintiff ought to be releeved in equity, albeit the Deeds to *Pooley* and *Glemham* should fall out to be true Deeds; but those Deeds seem to be false and antidated after the Lady *Cheynes* Revocation of her Limitation 35 *Eliz.* and therefore I also conceive that the Plaintiff ought to be releeved for the Reversion of all the rest of the Lands, after the expiration of the Lease for 30 years which is now ended, and the great Estate in Lands and Goods of *Eliz. Cheyne* the Plaintiffs Aunt, whereof she was defrauded, were great and valuable Considerations

for *Thomas Cheyne* to convey this Reversion after the 30 years to the Plaintiff, being the sisters son of *Eliz. Cheyne*, and I think that the bargain and sale to the Plaintiff 6 *Jac. Regis*, and the new Assurances 12 *Jac. Regis*, and the Statute of 40000 Pound ought to be decreed for the Plaintiff in equity, according to the Covenants of *Thomas Cheyne*.

I hold that the Lady *Cheyne* by the Deed of 13 *Eliz.* had only power to make one Limitation and no more, and therefore that Limitation of the uses of the Recovery of 13 *Eliz.* in the bottom of the Deed of 35 *Eliz.* were void and idle, if those Deeds to *Pooley* and *Glemham* were made 29 *Eliz.* and true Deeds, which I conceive are repugnant to those Deeds 35 *Eliz.* and also to the last Will of the Lady *Cheyne*, which Declares that she never made any Limitation, nor ever intended to make any without power of Revocation.

If those Deeds to *Pooley* and *Glemham* had been true Deeds, it is not probable that Sir *John Crosts* the Lady *Cheynes* Commissioner would have omitted the proving of them at the finding of the Lord *Cheynes* Office in 35 *Eliz.* or have suffered the Lady *Cheyne* to have omitted the pleading of them in the Exchequer 36 *Eliz.* neither would the Earl have omitted the proving of them in his own Office 12 *Jac. Regis* after the death of the Lady *Cheyne*, nor in the Court of Wards, Councell-Table and Chancery, where he hath been called to prove them.

It appears that the Earl in the Court of Wards, pleaded the Plaintiffs bargain and sale, and Considerations to barre *Thomas Cheyne*, and therefore it will be a kind of contradiction, for the Earl to plead in

Chancery

Chancery againſt the Plaintiff, that now the Conſiderations are not valuable.

I am of opinion, That the Clarks undue entring up in the diſmiſſion at large in the Court of Wards againſt *Thomas Cheyne*, that the Court was ſatisfied of the Earls Title to be good and ſufficient in Law, without any ſuch words or warrant in the Order for diſmiſſion, and after pleading the ſame at the Councell-Table and in Chancery againſt the Plaintiff, is unduly done and ought to be ſuppreſſed.

The Lord *Cheyne* taking the Fee-ſimple from the Lady *Cheynes* heirs, given by the Deed of 6 *Eliz.* and ſeeling it upon his own heirs by the Deed of 18 *Eliz.* after the expiration of the Lady *Cheynes* Eſtate, doth cleerly ſhew, that he meant his wife ſhould leave the Reverſion after 30 years to his heirs and not to her heir, by ſuch a Deed as is pretended to be made by the Lady *Cheyne* 29 *Eliz.* to *Povley* and *Glenham*.

I do not conceive that any of the Fines levied by Earl of any part of the Land, can barre the Plaintiff of his right of Entry within five years after the expiration of the Leaſe for 50 years by the Statute of 4 *Hen.* 7. And I think that no Fines at any time can barre the Plaintiffs right in equity, nor his Statute of Forty thouſand Pound at the Common Law.

I am of the ſame opinion for the Reaſons aforeſaid.

THO. WIDDRINGTON.
July 28. 1645.

HEN. ROLL.
Aug. 5. 1645.

I am of the ſame opinion.

JOHN GODBOULD.

The

The Queſtion is,

WHether the Office of 12 *Jac.* in Mr St *Nichlas* Report mentioned, that findes the Lady *Cheyne* to die ſeized of the Fee-ſimple of her husbands Lands without finding any Deeds to intitle her, or the Diſmiſſion in Chancery of the Bill of *Triſtram Wodward* Eſq; againſt the Earl of *Cleveland* 4 *Carol.* before an Anſwer come in, or the Affidavit of Sir *John Thorowgood* in his own Caſe in the Report mentioned, or the Depoſitions of *John Cook* and *Richard Wallop* Eſquires, who depoſe in Chancery they did ſee thoſe Deeds dated 29 *Eliz.* alledged to be made by the Lady *Cheyne* to *Pooley* and *Glemham*, and the Regrant alledged to be made by *Pooley* and *Glemham* to the Lady *Cheyne*, ſhewed forth by Serjeant Taylor the Earls Councell to Juſtice *Reeve* and Juſtice *Foſter* upon a Reference from Parliament 1641. be ſufficient proof to prove the Deeds true Deeds and not antidated, without producing or proving the Execution to be ſealed and delivered 29 *Eliz.* the year they bear date, upon pretence to the Commiſſioners at the hearing of the Cauſe, that now the Deeds are loſt.

See Sir *George Caryes* book in point of his Reports in Chancery *folio* 31. Juſtice *Monſons* Caſe *primo Jacob.* where a Releaſe was pretended to be loſt, and it was depoſed it had been ſeen, but this was not allowed for proof, unleſſe he would ſwear he had ſeen it ſealed and delivered, for it is not ſufficient to ſay he ſaw it after it was a Deed, for no Deed is to be allowed unleſſe it be produced, or the execution thereof proved, thoſe are the words in Sir *George Caryes* book of Reports.

That

That the Act of Oblivion doth except from pardon, all Persons that shall give in evidence any forged antidated Deed, and therefore it is the safest way to say such Deeds are lost, then to give them in evidence for true Deeds.

That the said M. *Wodward* before the hearing of the Cause, did Petition the Committee of Obstructions, to hear and determin the Cause according as to their wisdomes shall seem to stand with equity and good conscience, for that the Petitioner is without all means to go to Law any further being in years, and he and his Children utterly undone by the Earl, which Petition was delivered to every one of the Commissioners of Obstructions that heard the Cause, and after dismissed it without any cause shewed in the Dismission, as by the Orders aforesaid appeareth, whereby the Petitioner and his Children are left in a distressed estate, without any means to subsist, and his debts unpaid to divers Persons of quality, of whom he found great love for his integrity and just dealing: And it is humbly submitted to judgement, whether in Conscience the debts of M. *Cheyne* that married *Eliz. Cheyne* the heir and Executrix of *Richard Ruffin*, ought to be paid out of these Mannors and Lands, before the debts of the Earl of *Cleveland* that is a stranger to M. *Cheyne*, nor paid any thing for the Reversion after the 30 years, being declared by learned Councell to be the Vineyard or Lands of M. *Cheyne*, and Conveyed and Covenanted to be Conveyed to M. *Wodward* for marriage, and for a recompence for the Lands of *Elizabeth Cheyne* and her sisters Portions that bought part of the Lands called *Swinford Lease*.

FINIS.

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